

1 The Honorable Judge Robert S. Lasnik
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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

9 JAMES MCDONALD,) Case No: C10-1952 RSL
10 Plaintiff,)
11 v.) DECLARATION OF HEIDI BUCK
12 ONEWEST BANK, FSB, NORTHWEST) MORRISON IN SUPPORT OF
13 TRUSTEE SERVICES, INC., MORTGAGE) RESPONSE TO PLAINTIFF'S
14 ELECTRONIC REGISTRATION) COUNTERMOTION TO COMPEL
15 SYSTEMS, INC., INDYMAC BANK FSB,) DISCOVERY REGARDING
16 DOES 1-50,) AUTHENTICITY OF THE NOTE
17 Defendants.)
18

I, Heidi Buck Morrison, declare as follows:

1. I am an attorney at the law firm of RCO Legal, P.S. ("RCO"), and one of the
2 attorneys responsible for representing OneWest Bank, FSB ("OneWest Bank") in the above
3 captioned case. I am competent to make the statements in this Declaration, which I am making
4 in support of the Response to Plaintiff's Countermotion to Compel Discovery Regarding
5 Authenticity of the Note. These statements are based on my own personal knowledge.

2. On March 12, 2013, I received from Ha Dao, counsel for plaintiff, an email
3 setting forth a number of witnesses she wished to depose, including three attorneys from RCO
4 (one of them being me). On that same day, I responded by email stating the attorneys would
5 have no personal knowledge about the remaining issues subject to discovery. On March 13, Ms.
6 Dao responded by email she could not rely on my representation about the attorneys' personal

1 knowledge and they should testify on their own behalf. Attached hereto and marked Exhibit A is
2 a true and correct copy of that email exchange.

3 3. I did not respond to Ms. Dao's March 13 email. I heard nothing further from Ms.
4 Dao related to these depositions.

5 4. On April 1, I sent an email to Ms. Dao asking about the status of the requested
6 depositions and advising Ms. Dao that two of the attorneys whose depositions were requested no
7 longer worked at RCO. Attached hereto and marked Exhibit B is a true and correct copy of that
8 email. Ms. Dao did not respond. I have not conferred by phone or in-person with Ms. Dao
9 regarding my or any other deposition her client is seeking.

10 The foregoing statements are made under penalty of perjury on April 5, 2013, at
11 Bellevue, Washington.

13 **RCO LEGAL, P.S.**

15 /s/ Heidi Buck Morrison
16 Heidi Buck Morrison

Heidi Buck Morrison

From: Ha Dao [hadaojd@gmail.com]
Sent: Wednesday, March 13, 2013 12:47 PM
To: Heidi Buck Morrison; James McDonald
Subject: Re: DEPOSITION SCHEDULE

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Heidi. Obviously, I can't take *your* words for what the other lawyers know or don't know. Since there are plenty of assertions made in the record of this case and the bankruptcy case about how your client is the holder of the original note I would need to have everyone swear under oath as to the factual basis of these assertions. If you all had no personal knowledge of certain factual matters that you asserted in your moving papers, declarations etc..., then that is all that you have to say in your depo and we would be done.

My request right now is informal as to scheduling. I will follow up with subpoenas, and you can move for protective order, if you believe there is a good faith basis in doing so.

On Wed, Mar 13, 2013 at 11:12 AM, Heidi Buck Morrison <hbuckmorrison@rcolegal.com> wrote:

Ha,

The attorneys involved have no personal knowledge as to the origin and location of the original note and have never offered testimony in any forum suggesting that they do. Any information offered to the court in that regard was supported by a declaration from the movant / beneficiary. Thus, I think the proposed witnesses Julie has agreed to confer with would be able to answer any questions you may have in that regard.

Heidi Buck Morrison
Attorney
Licensed to Practice Law in Washington

Direct: [425.213.5534](tel:425.213.5534)

Fax: [425.283.5968](tel:425.283.5968)

hbuckmorrison@rcolegal.com

RCO Legal, P.S.



From: Ha Dao [mailto:hadaojd@gmail.com]
Sent: Wednesday, March 13, 2013 11:01 AM
To: Julie Vacura; Heidi Buck Morrison; Chuck Katz; "James cDonald
Subject: Re: DEPOSITION SCHEDULE

Julie. That is all we're trying to get to. I would like for you to understand that by proposing to depose RCO's lawyers, I just want to ascertain the basis of their personal knowledge of the origin and location of the original note. I will not infringe upon any attorney-client or work-product material so these depos will be extremely brief.

Given our collective crazy schedule, I want to work with you in earnest to get these matters out of the way. I hope to get your reciprocity toward this goal.

On Tue, Mar 12, 2013 at 5:07 PM, Julie Vacura <jvacura@larkinsvacura.com> wrote:

Ha – Since my last email to you, I have gone back and looked at the court's order again regarding discovery related to the note. I interpret it to allow for discovery of OneWest witnesses that may have knowledge about that issue. I will speak to those witnesses listed in your email and determine which of them has any knowledge about the original note or copies of the original note and let you know who they are. I should be able to get back to you in the next several days.

L A R K I N S | V A C U R A

Julie R. Vacura

Larkins Vacura LLP

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From: Ha Dao [mailto:hadaojd@gmail.com]

Sent: Tuesday, March 12, 2013 5:40 PM

To: Julie Vacura

Cc: James McDonald

Subject: Re: DEPOSITION SCHEDULE

Julie, please refer to the judge's orders issued last week. I am sure if you don't agree with me about what the orders actually say about discovery, we can ask the judge to clarify.

On Tue, Mar 12, 2013 at 4:18 PM, Julie Vacura <jvacura@larkinsvacura.com> wrote:

Ha - Discovery is closed. Please advise us the basis for seeking these depositions.

L A R K I N S | V A C U R A

Julie R. Vacura

Larkins Vacura LLP

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From: Ha Dao [mailto:hadaojd@gmail.com]

Sent: Tuesday, March 12, 2013 5:16 PM

To: Julie Vacura; Joe Mueller; Heidi Buck Morrison; James McDonald

Subject: DEPOSITION SCHEDULE

Counsel, my client and I would like to work out a schedule for deposition of the following witnesses:

For April

Heidi Buck Morrison, Esq.

Melissa Williams Romeo, Esq.

Mark Moburg, Esq.

Vonnie McElligott

Jeff Stenman

For May

Charles Boyle

Erica Johnson-Seck

Brian Burnett

Rebecca Marks

Suchann Murray

JC San Pedro

Chamagne Williams

Chris Corcoran

Please advise of your availability as soon as practicable and whether you would accept service of subpoenas on the witnesses' behalf.

I appreciate your cooperation in getting these depositions scheduled.

--

Ha Thu Dao, Esq.

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--

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--

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--

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Heidi Buck Morrison

From: Heidi Buck Morrison
Sent: Monday, April 01, 2013 2:42 PM
To: 'Ha Dao'
Subject: FW: depositions
Attachments: Re: DEPOSITION SCHEDULE

Ha,

I just wanted to follow up with you in regard to the depositions you appeared to be requesting earliest last month. I never heard anything more from you after your 3/13/13 email specifically relating to the deps of the RCO attorneys (neither Melissa Romeo nor Mark Moburg work at RCO any longer) and the NWTS employees, Jeff Stenman and Vonnie McElligott. Where are we at with this?

Heidi Buck Morrison
Attorney
Licensed to Practice Law in Washington

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RCO Legal, P.S.



From: Ha Dao [<mailto:hadaoij@gmail.com>]
Sent: Monday, April 01, 2013 12:13 PM
To: Julie Vacura; Heidi Buck Morrison; James McDonald; Burnside, Fred
Subject: Re: depositions

Julie & Heidi, I don't have any alternative dates. It is extremely expensive for us to do this. I am willing to come early or stay late to accommodate Mr. Boyle since the other people are fine with our proposed dates but I don't have any other opening in May and I don't want to push all these dates back further.

Additionally, I am preparing to file our response to your unopposed motion to schedule experts deposition in which I will ask the judge to rule upon our disagreement over who we can depose on the issue of the authenticity of the note. I would like to offer you both the last chance to work out an agreement before my request to compel is filed.

Please email me your thoughts before end of day. Thank you.

On Thu, Mar 28, 2013 at 9:36 AM, Julie Vacura <jvacura@larkinsvacura.com> wrote:

Ha – The three people that we have agreed will be deposed are all in Austin. Charles Boyle is not available on the dates you have proposed. Can you please send me some other options and we will try to get them all scheduled to occur at the same time? Thanks. – Julie

L A R K I N S | V A C U R A

Julie R. Vacura

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--

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CERTIFICATE OF SERVICE

I am employed in Multnomah County, State of Oregon. I am over the age of 18 and am not a party to the within action; my business address is 621 SW Morrison St., Suite 1450, Portland, Oregon 97205.

On April 5, 2013, I served the following document(s) described as:

**DECLARATION OF HEIDI BUCK MORRISON IN SUPPORT OF
RESPONSE TO PLAINTIFF'S COUNTERMOTION TO COMPEL DISCOVERY
REGARDING AUTHENTICITY OF THE NOTE**

on the party or parties listed on the following page(s) in the following manner(s):

- BY HAND DELIVERY:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by messenger to the street address(es) indicated on the attached service list.
- BY FEDERAL EXPRESS:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address (es) indicated on the attached service list.
- BY FIRST-CLASS MAIL:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.
- BY FACSIMILE:** For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.
- BY E-MAIL:** For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list. If this action is pending in Oregon state court, then I received confirmation that the e-mail was received.
- BY ECF:** For each party, I caused a copy of the document(s) to be sent by electronic mail via ECF to the e-mail address(es) indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

/s/ Julie R. Vacura

Julie R. Vacura

Ha Thu Dao

hadaojd@gmail.com, haandlinda@gmail.com, youremylawyer@gmail.com

Attorney for Plaintiff

Fred B Burnside fredburnside@dwt.com, cindybourne@dwt.com, lisabass@dwt.com,

seadocket@dwt.com

Attorney for MERS